

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 Cedric Greene,

4 Plaintiff

5 v.

6 Alhambra Hospital Medical Center,

7 Defendant
8
9

Case No.: 2:15-cv-451-JAD-NJK

Order Re: Doc. 12

10 On April 8, 2015, Magistrate Judge Nancy Koppe granted Cedric Greene pauper status and
11 screened his complaint as required by 28 U.S.C. § 1915(e). She recommended that Greene's
12 complaint be dismissed without prejudice for lack of venue and jurisdiction.¹ On April 24, 2015,
13 Greene requested an extension of the deadline to object to the order and report and recommendation,
14 claiming that he needed additional time to obtain and analyze material records from the California
15 state courts.² On April 27, 2015, I granted Greene's motion for extension, giving him until May 18,
16 2015, to file any objections.³ On May 18, 2015, Greene filed an omnibus document requesting an
17 extension of time to file objections in five of the lawsuits he has recently filed in this district,
18 including this one.⁴ I found that Greene's second request for an extension essentially admitted he
19 had overcommitted himself by filing too many lawsuits in this district, and that he could not
20 personally keep up with the obligations he has created.⁵ I also found that Greene's new explanation
21 was inconsistent with his original claim that he needed an extension of time so he could obtain state
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24 ¹ Doc. 4.

25 ² Doc. 6 at 2.

26 ³ Doc. 7.

27 ⁴ Doc. 8. For reasons of expediency I overlook any technical deficiencies in Greene's motion
for extension, as filed.

28 ⁵ Doc. 9.

1 court records.⁶ I found Greene's request for an extension of time to object was insufficient, denied
2 his request, deemed the report and recommendation unopposed, and granted it on that basis.⁷

3 Greene now moves for relief from that order, arguing that he filed his objections two days
4 after my ruling on the report and recommendation, and that I should reconsider my adoption of the
5 report and recommendation.⁸ Rule 60(b)(1) permits a district court to grant relief from a final
6 judgment due to "mistake, inadvertence, surprise, or excusable neglect." "Rule 60(b) is meant to be
7 remedial in nature and therefore must be liberally applied."⁹ "The determination of what conduct
8 constitutes excusable neglect under Rule 60(b)(1) . . . is at bottom an equitable one, taking account
9 of all relevant circumstances surrounding the party's omission."¹⁰ I consider four factors: "(1) the
10 danger of prejudice to the opposing party; (2) the length of the delay and its potential impact on the
11 proceedings; (3) the reason for the delay; and (4) whether the movant acted in good faith."¹¹

12 Having considered all four factors, and incorporating herein my decisions on Greene's
13 second motion for extension of time, I find no basis for granting Greene the relief he desires. The
14 danger of prejudice to the opposing party is high, as Magistrate Judge Koppe's screening order
15 effectively saved the defendant from having to litigate at all. While the length of delay from the
16 time I adopted Magistrate Judge Koppe's report and recommendation and the time Greene filed his
17 objections is brief, it was preceded by an extension of Greene's time to object. Additionally, it is not
18 clear that Greene is acting in good faith; he first requested an extension of time to object so he could
19 acquire state criminal records, and then later admitted that he had simply filed too many lawsuits in
20 this district to be able to keep up with them all, and he chose to meet deadlines in some of his other

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22 ⁶ *See id.*

23 ⁷ *See id.*

24 ⁸ Doc. 12.

25 ⁹ *Falk v. Allen*, 739 F.2d 461, 463 (9th Cir. 1984).

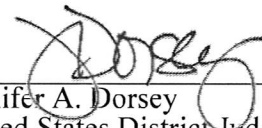
26 ¹⁰ *Brandt v. Am. Bankers Ins. Co. of Florida*, 653 F.3d 1108, 1111 (9th Cir. 2011).

27 ¹¹ *Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1261 (9th Cir. 2010).

1 cases before getting to this one.¹² This explanation is simply no defense at all; ordinary civil
2 litigants are not immune from the rules of procedure—or the consequences of failing to
3 comply—simply because they choose to represent themselves,¹³ and an attorney who tries to explain
4 a tardy filing by pointing to such overcommitment would likely face a malpractice suit. On balance,
5 I find no good reason to grant Greene relief under Rule 60(b).¹⁴

6 Accordingly, it is hereby ORDERED that Green's Declaration and Request for Relief from
7 Judgment under Rule 60(b)(1) [Doc. 12] is DENIED.

8 DATED June 3, 2015.

9
10 
Jennifer A. Dorsey
United States District Judge

11 Clerk to notify:

12 Cedric Greene
13 545 South San Pedro St.
14 Los Angeles, CA 80013
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23 ¹² See *id.*

24 ¹³ See, e.g., *King v. Atiyeh*, 814 F.2d 565, 567 (9th Cir. 1986); see also *Jacobsen v. Filler*, 790
25 F.2d 1362, 1364 (9th Cir. 1986) ("Pro se litigants in the ordinary civil case should not be treated more
favorably than parties with attorneys of record.").

26 ¹⁴ Even assuming *arguendo* I would consider Greene's objections on their merits, I would
27 overrule them because, among other things, the District of Nevada is clearly an unsuitable venue for
adjudication of Greene's disputes. See Doc. 4 at 2-3.